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General Assembly
Agenda item 127
International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Security Council
Sixty-sixth year

Identical letters dated 16 December 2011 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council

I have the honour to transmit to you the attached letter dated 26 November 2011 that I have received from Judge Khalida Rachid Khan, President of the International Criminal Tribunal for Rwanda (see annex).

In her letter, Judge Khan requests the extension of the term of office of four permanent judges and seven ad litem judges of the Trial Chamber until 30 June 2012 or until the completion of the cases to which they are assigned, if sooner. I recall that, pursuant to Security Council resolution 1932 (2010) and General Assembly decision 64/415, the current term of office of the Trial Chamber judges is set to expire on 31 December 2011. However, contrary to previous projections, several cases will not be completed by the end of 2011. It is therefore necessary to extend the term of office of the judges to enable them to complete the cases.

It falls to the General Assembly and the Security Council to consider and decide on these requests. Accordingly, I would be grateful if you would bring the present letter and its annex to the attention of the General Assembly and the Security Council.

(*Signed*) **BAN** Ki-moon

Annex

Letter dated 26 November 2011 from the President of the International Criminal Tribunal for Rwanda addressed to the Secretary-General

I am writing to request the extension of the terms of office for a number of the Tribunal's judges. In connection with this, I am also submitting an updated trial schedule (enclosure 1) and an overview of the current assignments of all trial judges serving at the Tribunal (enclosure 2). I ask that you submit this request to the Security Council and the General Assembly for appropriate action, where required.

During the course of 2011, so far one permanent and two ad litem judges have completed their service to the Tribunal and demitted office and two further ad litem judges will demit office on 31 December 2011. Judges de Silva and Hikmet left in May 2011, Judge Short departed in October 2011, and Judges Arrey and Akay will leave the Tribunal upon completion of their cases in December 2011.

Based on the current trial schedule attached, I seek extension of the terms of office for our four remaining permanent trial judges and for seven of our nine ad litem judges. The extension request takes into consideration that three of our permanent judges will be redeployed to the Appeals Chamber in line with Article 13 (3) of the Statute.

I must note that there will be a need to seek further extensions should the referral of the *Uwinkindi* case to Rwanda be reversed on appeal.

Below, I have discussed each judicial activity that will require extensions into 2012. I have asked for extensions for all judges until 30 June 2012, or upon completion of the cases to which they are or will be assigned, if sooner. As you will note, some judges will complete their work in the first quarter of 2012. I have asked for an overall extension until June 2012 as circumstances frequently arise that require short-term extensions as well as completion of cases which cannot yet be firmly scheduled.

Trials

Karemera et al. (Judges Byron, Kam and Joensen)

The *Karemera et al.* judgement will be delivered as anticipated on 21 December 2011. However, it is expected that a short period will be needed after oral delivery to finalize the very complex written judgement. The finalization of the judgement has been delayed by disclosure of possible exculpatory material in October 2011. Even with the time to finalize the written judgement, this will be by far the shortest time needed between the close of evidence and delivery of judgement in any multi-accused case in the history of the Tribunal.

Nizeyimana (Judges Muthoga, Park and Fremr)

The *Nizeyimana* judgement will be delivered in March 2012, which has been the date anticipated in the last two completion strategy reports.

Nzabonimana (Judges Bossa, Tuzmukhamedov and Rajohnson)

Judgement delivery is now expected in March 2012 instead of December 2011, due to the procedural complexity of the case, the reopening of the evidence phase to hear further Defence evidence, and the judges' intensive final work in other cases. I had informed the Security Council of this delay in my letter of 26 September 2011 to the Secretary-General requesting Judge Tuzmukhamedov's temporary part-time assignment. I also discussed this in my address presenting the annual report to the General Assembly on 11 November 2011.

Ngirabatware (Judges Sekule, Bossa and Rajohnson)

The *Ngirabatware* judgement is now scheduled to be delivered in June 2012 rather than March 2012. This is due in part to the unanticipated length of the Defence case, which has been extended due to fair trial requirements, as well as to the involvement of the judges in other trials. I also noted this delay in my speech to the General Assembly on 11 November 2011.

Other judicial activities

- *Munyagishari*: Pre-trial and rule 11 bis referral application (Judges Khan, Muthoga and Park). The Prosecution filed a rule 11 bis motion for referral of the case to Rwanda on 3 October 2011. A decision on this is expected in early 2012 after the decision is rendered on the appeal of the *Uwinkindi* referral.
- *Sikubwabo* and *Kayishema*: Rule 11 bis referral application (Judges Khan, Joensen and Kam). A decision on this is expected in early 2012 after the decision is rendered on the appeal of the *Uwinkindi* referral.
- Lifting of over 500 witness protection orders (thus far, Judge Joensen). Work has begun on the lifting of hundreds of witness protection orders so that the Residual Mechanism will not be burdened with the resource demanding management of witnesses whose protection is no longer required.
- Three anticipated contempt cases will be assigned benches upon arrest of the fugitive accused, and are expected to require judges until 30 June 2012.

Permanent judges

All remaining permanent trial judges, except for Judge Byron, are to be redeployed to the Appeals Chamber upon completion of their work, at which time their terms of office will be the same as the terms of office of other Appeals Chamber judges, pursuant to Security Council resolution 1878 (2009). Until then, extension is sought in line with the current anticipated completion of their work in Arusha.

Extensions are sought until 30 June 2012 or completion of the cases to which they are or will be assigned, if sooner, for the following:

Judge Khalida Rachid Khan (Pakistan)
Judge William H. Sekule (United Republic of Tanzania)
Judge Charles Michael Dennis Byron (Saint Kitts and Nevis)
Judge Bakhtiyar Tuzmukhamedov (Russian Federation)

Ad litem judges

All ad litem judges are expected to demit office at the completion of their current judicial activities.

Extensions are sought until 30 June 2012 or completion of the cases to which they are or will be assigned, if sooner, for:

Judge Vagn Joensen (Denmark)
Judge Solomy Balungi Bossa (Uganda)
Judge Lee Gacuiga Muthoga (Kenya)
Judge Seon Ki Park (Republic of Korea)
Judge Gberdao Gustave Kam (Burkina Faso)
Judge Robert Fremr (Czech Republic)
Judge Mparany Rajohnson (Madagascar)

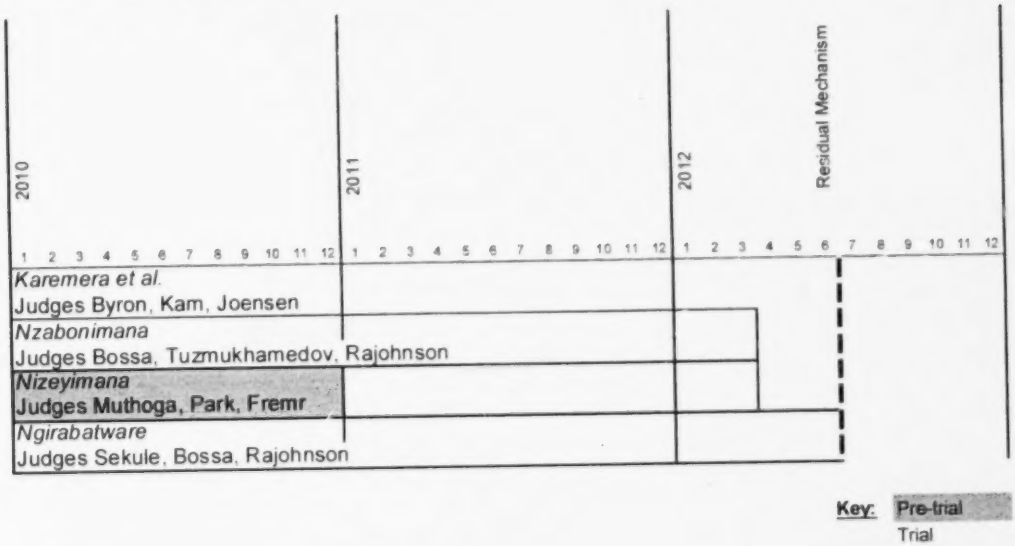
These matters are of crucial importance to ensure that the Tribunal can meet the goals of its completion strategy, that is, the completion of all trials by the first half of 2012 and of all appeals by the end of 2014.

I would therefore be grateful if you would bring this request to the attention of the Security Council and the General Assembly for necessary action, where required.

(*Signed*) Khalida Rachid **Khan**
President

Enclosure 1

Projected schedule of the International Criminal Tribunal for Rwanda as of 26 November 2011[a]


2010
2011
2012
Residual Mechanism
1 2 3 4 5 6 7 8 9 10 11 12 1 2 3 4 5 6 7 8 9 10 11 12 1 2 3 4 5 6 7 8 9 10 11 12
Karemera et al.
Judges Byron, Kam, Joensen
Nzabonimana
Judges Bossa, Tuzmukhamedov, Rajohnson
Nizeyimana
Judges Muthoga, Park, Fremr
Ngirabatware
Judges Sekule, Bossa, Rajohnson
Key:
Pre-trial
Trial

Other work

Reviewing approximately 500 witness protection orders

Review of six amended indictments with respect to fugitives

Decisions in at least two further rule 11 bis applications

Three expected contempt cases

Kabuga, Mpiranya and Bizimana rule 71 bis preservation of evidence proceedings

Rules Committee final review of draft rules of procedure and evidence of the International Residual Mechanism for Criminal Tribunals

[a] Dates are indicated for oral delivery of judgements. Additional time is sometimes required to finalize complex written judgements.

Enclosure 2

Current assignments of the trial judges of the International Criminal Tribunal for Rwanda and expected completion dates as of 26 November 2011

Permanent judges

Judge	*Assigned case*	*Projected completion date*[a,b]
Khan (Pakistan)	*Sikubwabo* rule 11 bis and *Kayishema* rule 11 bis (Presiding)	To be announced
	Munyagishari pre-trial (Presiding)	To be announced
	Munyagishari rule 11 bis (Presiding)	To be announced
Sekule (United Republic of Tanzania)	*Ngirabatware* (Presiding)	June 2012
Byron (Saint Kitts)	*Karemera et al.* (Presiding)	December 2011
	Uwinkindi pre-trial (Presiding)	To be announced
Tuzmukhamedov (Russian Federation)	*Ndahimana*	November 2011
	Nzabonimana	March 2012

Ad Litem Judges

Joensen (Denmark)	*Karemera et al.*	December 2011
	Uwinkindi pre-trial	To be announced
	Kabuga rule 71 bis	March 2012
	Sikubwabo rule 11 bis and *Kayishema* rule 11 bis	To be announced
Bossa (Uganda)	*Ngirabatware*	June 2012
	Nzabonimana (Presiding)	March 2012
Muthoga (Kenya)	*Nizeyimana* (Presiding)	March 2012
	Munyagishari pre-trial	To be announced
	Munyagishari rule 11 bis	To be announced
Arrey (Cameroon)	*Ndahimana* (Presiding)	November 2011
	Mpiranya rule 71 bis	December 2011
Park (Republic of Korea)	*Nizeyimana*	March 2012
	Munyagishari pre-trial	To be announced

Judge	*Assigned case*	*Projected completion date*[a,b]
	Munyagishari rule 11 bis	To be announced
Kam (Burkina Faso)	*Karemera et al.*	December 2011
	Bizimana rule 71 bis	December 2011
	Sikubwabo rule 11 bis and *Kayishema* rule 11 bis	To be announced
	Uwinkindi pre-trial	To be announced
Fremr (Czech Republic)	*Nizeyimana*	March 2012
Rajohnson (Madagascar)	*Ngirabatware*	June 2012
	Nzabonimana	March 2012
	Ndahimana	November 2011
Akay (Turkey)	*Ndahimana*	November 2011

[a] All completion dates to be announced will be determined after the Appeals Chamber renders the *Uwinkindi* decision.
[b] Where judgement delivery dates are discussed, the dates indicated are for oral delivery. Additional time is sometimes required to finalize complex written judgements.

Additional assignments required for

- **Three expected contempt cases**
- **Lifting of over 500 witness protection orders**
- **Review of six amended indictments with respect to fugitives.**